

Bernadine Griffith

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1 to Rick Coury and you told him that Suzanne  
 2 Walker had said "Up yours" in the ladies' room  
 3 you also told him about other things that were  
 4 happening that you found objectionable?  
 5 A Yes.  
 6 Q Okay. What else did you tell him about?  
 7 A Rubber bands and paper clips being thrown,  
 8 the tops of yogurt containers being thrown in a  
 9 frisbee manner, the mouse pad being thrown right  
 10 outside my cube.  
 11 Q Other than the rubber bands and the paper  
 12 clips and the yogurt tops and the mouse pads, did  
 13 you complain about anything else being thrown?  
 14 A Yes.  
 15 Q What else?  
 16 A A paper airplane being -- was sailed or  
 17 flew into my cube and flew by my eyes, close to  
 18 my eyes, in my line of vision.  
 19 Q Anything else?  
 20 A I believe that's it.  
 21 Q Okay. Is there any reason why you  
 22 wouldn't remember something else that happened?  
 23 A Is there any -- I don't understand the  
 24 question.

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1 Q I'm trying to figure out if you're -- I'm  
 2 trying to make sure that you've told me  
 3 everything you remember, and I'm just saying is  
 4 there some reason today that you might remember  
 5 something that occurred?  
 6 A I couldn't answer that.  
 7 Q Okay. With regard to the rubber bands and  
 8 the paper clips, do you know who was throwing  
 9 them?  
 10 A Yes.  
 11 Q Who?  
 12 A Ed Sobel.  
 13 Q Just Ed Sobel?  
 14 A Owen Davies.  
 15 Q Is there anyone else?  
 16 A In general or just at me?  
 17 Q Let's just go with in general.  
 18 A There's no one else.  
 19 Q Okay. When you said they were throwing  
 20 rubber bands and paper clips, were they only  
 21 throwing them at you?  
 22 A I only recall the ones that sailed in my  
 23 cube while I was there.  
 24 Q So there could have been other ones being

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1 thrown around at the same time as there were ones  
 2 that were going into your cube?  
 3 A I was only aware of the ones that came in  
 4 my cube.  
 5 Q Did you see at any time, even if it wasn't  
 6 on this particular time, paper clips or rubber  
 7 bands being thrown around generally in the  
 8 office?  
 9 A It was not a general practice.  
 10 Q Okay. Did you see them at any time?  
 11 A Excuse me. The question again?  
 12 Q At any time did you see paper clips or  
 13 rubber bands being thrown around the office other  
 14 than the times when you say they were being  
 15 thrown at you?  
 16 A No.  
 17 Q Okay. Why is it you believe they were  
 18 being thrown at you?  
 19 A Because they came within my personal  
 20 space, my vicinity, close to my body.  
 21 Q Did you see Ed Sobel throwing rubber bands  
 22 at you?  
 23 A I saw him shooting them. I said throwing,  
 24 but I meant shooting. Yes.

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1 Q Was he aiming at you?  
 2 A He was aiming toward my cube and I was  
 3 there, so I would say yes.  
 4 Q Could you see him aiming at you?  
 5 A Yes.  
 6 Q Could you see when -- Was Mr. Sobel also  
 7 throwing paper clips?  
 8 A Yes.  
 9 Q Was he aiming those at you?  
 10 A Some were, yes.  
 11 Q When you say "some were," what does -- how  
 12 are you making that distinction?  
 13 A Sometimes they fell out of the rubber  
 14 band.  
 15 Q Okay.  
 16 A Like you prime the rubber band to put the  
 17 paper clip in there --  
 18 Q Okay.  
 19 A -- sometimes they fell out --  
 20 Q So he would --  
 21 A -- and only the rubber band would project.  
 22 Q Okay. So the action that you're  
 23 describing, are you saying that Mr. Sobel and  
 24 Mr. Davies would take paper clips, put a rubber

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1 band around one end, draw it back in order to use  
 2 it as a base to shoot the rubber band?  
 3 A Correct.  
 4 Q Okay. And sometimes in releasing the  
 5 rubber band, in addition to the rubber band  
 6 flying, the paper clip would fly as well?  
 7 A Correct.  
 8 Q So they weren't just taking paper clips  
 9 and just pegging them in your office?  
 10 A No, they were not.  
 11 Q Okay. So if they were using a -- a paper  
 12 clip and paper clip through -- I'm sorry. If the  
 13 paper clip came into your office, it was because  
 14 they were using it as a slingshot for the rubber  
 15 band?  
 16 A Correct.  
 17 MS. HILL: Objection to "they." Could you  
 18 clarify who "they" is, please.  
 19 Q Ms. Griffith, do you know who I'm talking  
 20 about when I say "they"?  
 21 A I -- I thought Owen Davies and Ed Sobel.  
 22 Q Correct. That's who I was talking about  
 23 and I think we were talking about during that  
 24 whole time. If at any time you don't understand

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1 what I'm saying, please make sure to let me know,  
 2 and I'll clarify. Okay?  
 3 A Okay.  
 4 Q Thanks.  
 5 Other than -- Strike that.  
 6 Mr. Davies, did you see him aim rubber  
 7 bands at you?  
 8 A Yes.  
 9 Q And was he standing up and aiming them  
 10 over into your cubicle, or what was he doing?  
 11 A Yes, he was.  
 12 Q Okay. And was Mr. Sobel doing the same  
 13 thing, standing up and aiming them into your  
 14 cubicle?  
 15 A When I saw, yes.  
 16 Q Okay. Did you say anything to them?  
 17 A No.  
 18 Q You never said "Stop"?  
 19 A No.  
 20 Q You never said "I think that's  
 21 inappropriate"?  
 22 A No.  
 23 Q What did you do?  
 24 A I continued to work.

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1 Q So you just sat there?  
 2 A I continued to work.  
 3 Q Right. But you didn't move?  
 4 A Sometimes I did.  
 5 Q I guess what I'm asking you is did you  
 6 ever get up from your desk where you were working  
 7 and leave your cubicle --  
 8 A Yes.  
 9 Q -- at the time they were throwing rubber  
 10 bands paper clips?  
 11 A Yes.  
 12 Q Where did you go?  
 13 A The ladies' room, the copy room.  
 14 Q Did you ever complain about the rubber  
 15 bands and the paper clips being thrown when you  
 16 got up and left your cubicle?  
 17 A No.  
 18 Q At any point did you complain about the  
 19 rubber bands and the paper clips that Mr. Sobel  
 20 and Mr. Davies were throwing?  
 21 A Yes.  
 22 Q When?  
 23 A To Rick Coury.  
 24 Q When?

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1 A When I complained about Suzanne screaming  
 2 "Up yours" in my face.  
 3 Q Okay. Did you believe Mr. Sobel's and  
 4 Mr. Davies' actions with the rubber bands were  
 5 motivated by racial animus?  
 6 A Yes.  
 7 Q Why?  
 8 A It was the atmosphere and it was the  
 9 type -- They weren't doing it to the other female  
 10 members in our group, and they were -- I just  
 11 believed it.  
 12 Q Were they doing it to the other males in  
 13 the group?  
 14 A Not that I know of.  
 15 Q You were the only one that you know of  
 16 that Mr. Sobel and Mr. Davies fired rubbers bands  
 17 or paper clips at?  
 18 A Correct.  
 19 Q Okay. Where, with regard to where your  
 20 cubicle was, was the cubicle of Mr. Sobel?  
 21 A It was behind me.  
 22 Q Okay. So you were adjoining?  
 23 A No. It was behind me and an aisle over to  
 24 the right.

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1 A Correct.  
 2 Q Who threw the paper airplane?  
 3 A Ed Sobel.  
 4 Q How do you know that?  
 5 A He stood -- He was on -- He was in the  
 6 cube next to mine, and he stood up and he sailed  
 7 the -- the paper airplane toward Suzanne, who was  
 8 sitting behind me.  
 9 Q Okay. So Ed Sobel stood up, threw a paper  
 10 airplane aiming for Suzanne Walker --  
 11 A Correct.  
 12 Q -- and it --  
 13 A In her direction.  
 14 Q -- and it landed in your cubicle?  
 15 A Right. Took a swing and...  
 16 Q When was the -- When did Mr. Sobel throw  
 17 the paper airplane with regard to the meeting  
 18 that -- the group meeting that Mr. Coury had?  
 19 A Before.  
 20 (Discussion off the record.)  
 21 Q Did anyone throw anything after Rick Coury  
 22 had the group meeting?  
 23 A No, I don't believe so.  
 24 Q Okay.

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1 A No.  
 2 Q Let's go back to Suzanne Walker. Okay?  
 3 A Okay.  
 4 Q After Suzanne Walker said "Up yours" for  
 5 the first time in the ladies' room around 1996,  
 6 what was the next time that you felt you had a  
 7 hostile encounter with her?  
 8 A When she changed the code in my program  
 9 and said she did not.  
 10 Q And do you have an idea -- Was this in  
 11 1996?  
 12 A I would say 1996.  
 13 Q Was this before or after Mr. Freeman made  
 14 the tar baby comment?  
 15 A This was before.  
 16 Q How do you know that she changed the code  
 17 in your program?  
 18 A When I -- When I confronted her about it  
 19 she admitted. First she said she didn't change  
 20 anything. And I had a back-up copy of my code,  
 21 and I showed her a print-out where there was a  
 22 code change from the date stamp on the file. And  
 23 she admitted that she made that change, and she  
 24 justified it by saying that she needed -- that it

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1 did not break anything. But it had.  
 2 Q Did she say why she made the change in the  
 3 code?  
 4 A She did not say.  
 5 Q Did you ask her why?  
 6 A Yes, I did.  
 7 Q And what did she say?  
 8 A She didn't answer that.  
 9 Q Okay. Did you complain about the fact  
 10 that Suzanne Walker changed the code in your  
 11 program?  
 12 A Yes, I did.  
 13 Q To whom did you complain?  
 14 A Ed Freeman.  
 15 Q When did you complain?  
 16 A The very day that I discovered it.  
 17 Q Okay. And what did Mr. Freeman do?  
 18 A He was a bystander in the con -- in the  
 19 conversation that I had with Suzanne, and I was  
 20 justifying why my code should be returned the way  
 21 it was because it worked according to the specs  
 22 that I was given.  
 23 Q Did Ms. Walker have access to people's  
 24 computers to change their code?

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1 A Yes.  
 2 Q Do you know if she changed code in other  
 3 people's programs?  
 4 A I do not know.  
 5 Q The program in which she changed the code,  
 6 was that the program that the two of you were  
 7 working on?  
 8 A Correct.  
 9 Q Okay. And for that program she was senior  
 10 to you, meaning she had higher rank?  
 11 A Correct.  
 12 Q After the incident when Ms. Walker changed  
 13 your code, when was the next time you had an  
 14 interaction with her that you felt was hostile?  
 15 (Pause.)  
 16 A When she wanted to know what assignment I  
 17 was working on and why.  
 18 Q Okay. Was this the first incident you  
 19 were telling me about, or is this another one?  
 20 A This is another one.  
 21 Q Okay. So she asked you about what program  
 22 you were working on and why?  
 23 A Correct.  
 24 Q Was this in 1996?

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1 A I'd say around 1996, 1997.  
 2 Q Okay. Was it after Mr. Griffith — I'm  
 3 sorry. Was it after Mr. Freeman made the tar  
 4 baby comment?  
 5 A It was before.  
 6 Q Okay. Why was she asking you what program  
 7 you were working on?  
 8 A That's what I asked her. "Why?"  
 9 Q And what was her response?  
 10 A "Why are you asking me why?"  
 11 Q Okay. And did you say something in  
 12 return?  
 13 A I said "Because you're asking me, and I  
 14 want to know why."  
 15 Q Okay. Did she say anything?  
 16 A Other than "You know why."  
 17 Q Did you know why?  
 18 A Yes.  
 19 Q And why was that?  
 20 A Because Ed Freeman told me to do it. He  
 21 gave me my assignment.  
 22 Q Okay. I'm confused.  
 23 You testified that Ms. Walker asked you  
 24 why you were working on a particular program.

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1 A Correct.  
 2 Q And in response you said "Why are you  
 3 asking me what program I'm working on?"  
 4 A Correct.  
 5 Q And she said "You know why I'm asking you  
 6 what program you're working on?"  
 7 A Correct.  
 8 Q And your response — Strike that.  
 9 Why did she believe that you knew why she  
 10 was asking you what program you were working on?  
 11 A I could not tell you that.  
 12 Q Was there something special about the  
 13 program you were working on?  
 14 A I could not tell you that.  
 15 Q Okay. Was she supervising your work on  
 16 that program?  
 17 A No.  
 18 Q Was she working with you on that program?  
 19 A No.  
 20 Q Had she been working on that program  
 21 before you were told to work on that program?  
 22 A I don't know.  
 23 Q Was that the end of your conversation, her  
 24 saying to you "You know why I'm asking you why

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1 you're working on this"? Was that the end of her  
 2 conversation with you at that time?  
 3 A Yes.  
 4 Q Did you complain about that incident?  
 5 A No.  
 6 Q Okay. Why did you think that was hostile?  
 7 A Because of the tone and — of the  
 8 conversation.  
 9 Q And why did you think that had to do with  
 10 your race?  
 11 A Others were not treated that way.  
 12 Q By Suzanne?  
 13 A By Suzanne.  
 14 Q Could it have been that she just didn't  
 15 care for your personality?  
 16 A I couldn't speculate on — on that.  
 17 Q Did you consider that?  
 18 A Excuse me.  
 19 Q Did you consider that it could have been  
 20 that she just really didn't care for your  
 21 personality as opposed to disliking you because  
 22 you were black?  
 23 A I don't know how to answer that. I —  
 24 Q Okay. And —

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1 A I tried to work professionally with her  
 2 when I had to and even when I didn't.  
 3 Q Okay. But what I'm asking you is when --  
 4 You said definitively you believe that she was  
 5 engaging with you in this way because she  
 6 disliked you because you were black.  
 7 And my question is when you decided that  
 8 the reason why she was interacting with you in  
 9 this way was because you were black did you  
 10 consider that maybe she just didn't care for your  
 11 personality and it didn't have anything to do  
 12 with your race?  
 13 A I did not because I — because of the way  
 14 Suzanne treated other people and the way she  
 15 treated me. I don't believe — She never had,  
 16 that I know of, a grievance with me. And I  
 17 didn't have any interactions with her unless I  
 18 had to.  
 19 Q By not having a grievance with you do you  
 20 mean that to your knowledge you don't know why  
 21 she would have reason to dislike you?  
 22 A Correct.  
 23 Q And so your conclusion was, because you  
 24 didn't know why she would have reason to dislike



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1 you, that she must dislike you because you were  
2 black?

3 A Say that again, please.

4 MS. MOORE: Can you read it back.

5 (Record read.)

6 A I don't know if it was my conclusion, but  
7 I know that I was being treated differently than  
8 what she was treating others.

9 Q Okay. And you believed that the reason  
10 you were being treated differently was because  
11 you were black?

12 A Yes.

13 Q Okay. Other than changing the code in the  
14 program, the comment about "Up yours" and the  
15 interaction that we just discussed about her  
16 questioning you about why you were working on a  
17 particular program, was there any other incident  
18 you had with Suzanne Walker that you felt was  
19 hostile or motivated by race?

20 A No.

21 Q Did you believe that the incident with  
22 Ms. Walker that started our discussion about her  
23 where she said she didn't want to work on a  
24 program with you and referred you to Ed Freeman,

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1 was that a time that you believed your  
2 interaction was based on race discrimination?

3 A Yes.

4 Q Okay. Did you end up working with  
5 Ms. Walker on that program, this one where she  
6 told you if you didn't -- she didn't want to work  
7 with you and if you had a question about it to  
8 talk to Mr. Freeman?

9 A Yes.

10 Q Okay. Did you work with her on any other  
11 program after that time?

12 A I don't believe so.

13 Q Okay. Other than complaining to Mr. Coury  
14 about Ms. Walker's comment to you in or around  
15 1996 in the ladies' room where she said "Up  
16 yours," did you ever complain to another manager  
17 about Ms. Walker?

18 A Ed Freeman.

19 Q And when did you complain to Mr. Freeman  
20 about Ms. Walker?

21 A When she announced that Ed Freeman did not  
22 want me working on the project and that he didn't  
23 want me working in the group.

24 Q Okay.

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1 A And I also complained when she changed my  
2 code, when she changed the code in the -- in the  
3 part of the program that I was responsible for.

4 Q Other than these two times, did you ever  
5 complain about Ms. Walker? I'm sorry. And the  
6 time to Mr. Coury.

7 So other than the time to Mr. Freeman when  
8 you complained about Ms. Walker with regard to  
9 her saying that Mr. Freeman didn't want her  
10 working in the group, when you complained about  
11 Ms. Walker changing the code in your program and  
12 when you complained about Ms. Walker saying "Up  
13 yours" to Mr. Coury, did you ever complain about  
14 Ms. Walker?

15 A No.

16 Q How else do you believe you were  
17 discriminated against based on your race while  
18 you were at CU?

19 A Other people were allowed to take day --  
20 take training during the daytime.

21 Q Who was allowed to take training during  
22 the daytime?

23 A Suzanne Walker. I can't recall everyone  
24 in the group. Rick -- Rick Canton, MaryAnn

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1 Russo. I can't remember. There were a few other  
2 people in the group. I can't recall their names.

3 Q We'll come back to them.

4 A And also Aihua Dai was allowed to take day  
5 courses for semesters and come in late, and Rick  
6 Canton was allowed also to take courses for -- to  
7 prepare him for certification.

8 And I was called upon to debug programs  
9 that these people wrote and implemented. I was  
10 called on to debug these programs without having  
11 the same training that they had.

12 Q Let's go one by one.

13 What training did Suzanne Walker have that  
14 you were denied?

15 A She had FileNet. She had -- I know of  
16 FileNet. I don't know of all of the other things  
17 that -- that she received training for.

18 Q Did you ask to have training on FileNet?

19 A Yes.

20 Q When?

21 A I believe it was around 1999.

22 Q Who did you ask to receive training in  
23 FileNet?

24 A Monica Scanlon.

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1 Q Where was the training in FileNet held?  
 2 A They were off sites. I believe one was in  
 3 Chicago and another was in -- It was on the west  
 4 coast.  
 5 Q Other than asking Ms. Scanlon in 1999 if  
 6 you could have FileNet training, did you ask  
 7 anyone else?  
 8 A No.  
 9 Q What was Ms. Scanlon's response to you  
 10 requesting FileNet training?  
 11 A She said "We'll see."  
 12 Q Would you have been willing to travel to  
 13 Chicago to receive the training?  
 14 A Yes.  
 15 Q Would you have been willing to travel to  
 16 the west coast to receive the training?  
 17 A Yes.  
 18 Q Wasn't one of your requests of  
 19 accommodations that you not be forced to travel?  
 20 A That was not true.  
 21 Q You didn't request to --  
 22 A I did not.  
 23 Q -- not have to travel?  
 24 A I did not.

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1 Q If you had gone to the FileNet class and  
 2 the class had begun at 8 o'clock in the morning  
 3 and lasted until 8 o'clock at night, how would  
 4 you have managed to take the class?  
 5 A We're speculating here?  
 6 Q No. I'm simply asking you if a class --  
 7 if a class began -- if the FileNet class began at  
 8 8 o'clock in the morning would you have been able  
 9 to attend it?  
 10 A I would say yes. Speculation, yes.  
 11 Q Okay. But you weren't able to be at work  
 12 at 8 o'clock in the morning?  
 13 A Not if I worked until 9 or 9:30 the night  
 14 before.  
 15 Q But you requested and your doctor said you  
 16 could work -- that it was best for you to work  
 17 between -- sometime after -- reporting to work  
 18 sometime after 8 o'clock and stopping sometime  
 19 before 6 o'clock. Is that correct?  
 20 A That was months after I had endured, I  
 21 would say, two years of from 9 -- from 8:45 until  
 22 sometimes 9 o'clock or 9:30 at night on a regular  
 23 basis. And because -- due to my health issues I  
 24 needed the rest, and I didn't get it. Once I got

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1 the rest, then it's a different story.  
 2 Q So it's your testimony that you were only  
 3 coming to work sometime after 9 o'clock and  
 4 leaving sometime before 7 o'clock as requested by  
 5 your doctor during a two-year span where you  
 6 needed to rest?  
 7 A I didn't say that.  
 8 Q Okay. When were you -- When did your  
 9 doctor require to you come to work sometime after  
 10 9 o'clock and to leave sometime before 7 o'clock?  
 11 A That was the original -- The original  
 12 accommodation agreement that Kathleen Moynihan,  
 13 manager of personnel, wrote said that they  
 14 would -- the company has decided to support my  
 15 doctor's recommendation that I work 8:45 to 5:45,  
 16 I believe -- 8:30 to 5:45.  
 17 Q Okay.  
 18 A Those accom -- That was not honored. That  
 19 accommodation was not honored. I had an open-end  
 20 day. I never knew what time I could go home  
 21 because of the various projects that came up that  
 22 were assigned to me. And I had no idea of  
 23 when -- Sometimes I could finish my work around  
 24 7:30 or 8. Sometimes it was later.

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1 Q Okay. I just want you to stay focused on  
 2 the question that I'm asking.  
 3 A Okay.  
 4 Q Okay?  
 5 The earliest time requested by your doctor  
 6 for you to report to work was 8:30. Is that  
 7 correct?  
 8 A I believe so.  
 9 Q And it's my understanding -- And we'll  
 10 talk about it a little later -- that as time went  
 11 on your doctors requested that you work starting  
 12 after 8:30 all the way up until 10 o'clock in the  
 13 morning. Is that correct?  
 14 A Correct.  
 15 Q What I'm asking you is that if you were  
 16 working restrictive hours from 8:30 until 5:45,  
 17 how could you attend a class that lasted longer  
 18 than those hours?  
 19 A I was not working restricted hours.  
 20 Q In 1999?  
 21 A In 1999.  
 22 Q You were not working restricted hours?  
 23 A Correct.  
 24 Q Okay. Do you remember any other programs



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1 Ms. Walker had other than FileNet that you were  
2 not able to -- training you were not able to  
3 receive?

4 A Excuse me. Say that again.

5 Q Anything other -- Any training other than  
6 FileNet that Ms. Walker had that you --

7 A That I am aware of, of the training that  
8 was going around?

9 Q (Counsel nodded.)

10 A No.

11 Q Rick Canton, what training did Mr. Canton  
12 have that you did not have?

13 A He received FileNet.

14 (Pause.)

15 A That's the one that I'm aware of.

16 Q You mentioned he was part of a  
17 certification program?

18 A He took a course to prepare to take the  
19 Microsoft certification program.

20 Q Who did Mr. Canton report to at that time?

21 A I believe Monica Scanlon.

22 Q Did you ever request to take the prep  
23 course for the Microsoft certification program?

24 A No.

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1 Q Did you ever request to take the Microsoft  
2 certification program?

3 A No.

4 Q Anything other than FileNet and the  
5 Microsoft certification program that Mr. Canton  
6 was able to do that you were not?

7 A Not that I'm aware of.

8 Q What class was MaryAnn Russo permitted to  
9 take that you were not permitted to take?

10 A These are day courses, and it was Visual  
11 Basic.

12 Q Who was MaryAnn Russo reporting to?

13 A Karen Holmes.

14 Q Okay. Did you request to take the Visual  
15 Basic course?

16 A The day course, no.

17 Q And it's the day course, the Visual Basic  
18 day course that MaryAnn Russo took?

19 A Correct.

20 Q But you never requested to take that  
21 course?

22 A Correct.

23 Q Anything else MaryAnn Russo was permitted  
24 to take that you were not permitted to take?

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1 A Not that I know of.

2 Q Any other certification program she was  
3 allowed to do that you were not allowed to do?

4 A Not that I'm aware of.

5 Q Aihua Dai, what was he permitted to do  
6 that you were not permitted to do --

7 A Aihua --

8 Q -- as far as taking courses of being part  
9 of programs?

10 A I'm sorry. I interrupted you.

11 Q It's okay.

12 A What did you say?

13 Q What program or course was Mr. Dai allowed  
14 to take that you were not allowed to take?

15 A Aihua Dai was allowed -- According to  
16 Aihua Dai and what he told me, he was taking  
17 courses -- day courses to complete his bachelor's  
18 degree.

19 Q Do you know what his bachelor's degree was  
20 in?

21 A No, I do not.

22 Q Did you ask if you could take classes to  
23 finish your bachelor's degree?

24 A No, I did not.

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1 Q Who did Aihua Dai report to?

2 A Tom Danforth.

3 Q Did Mr. Dai report to Tom Danforth during  
4 the time you reported to Karen Holmes?

5 A Yes, he did.

6 Q To your knowledge did Mr. Dai ever report  
7 to Karen Holmes?

8 A To my knowledge, no.

9 Q You also mentioned that Mr. Dai was  
10 permitted to take day courses and come in late.  
11 Could you tell me a little bit more about what  
12 you meant by that?

13 A His workday started around 4 o'clock.

14 Q PM?

15 A PM.

16 Q Do you know what time he left?

17 A Before 6 o'clock.

18 Q Is that what -- He worked Monday through  
19 Friday?

20 A I believe it was three days a week that he  
21 did that.

22 Q For how long?

23 A A semester.

24 Q On the other two workday weeks [sic] do

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1 you know what his schedule was like?  
 2 A Seven and a half hour day.  
 3 Q Do you know when he came in in the  
 4 morning?  
 5 A Not always, no.  
 6 Q And that's because he came in before you  
 7 came in. Is that correct?  
 8 A That's correct.  
 9 Q Do you know when he left at night?  
 10 A Before I did.  
 11 Q Okay. And that could have been any time,  
 12 or was there a cut-off time where he always left?  
 13 A I would imagine it was just -- dep -- I  
 14 really couldn't say.  
 15 Q You don't know?  
 16 A Excuse me.  
 17 Q You don't know?  
 18 A Know what?  
 19 Q When he left at the end of the day.  
 20 A Every day?  
 21 Q Right.  
 22 A Sometimes I did.  
 23 Q And for the sometimes that you did know,  
 24 when did he leave?

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1 A Before -- I would say around 5:30.  
 2 Q Do you know if Mr. Dai worked weekends  
 3 during this time when he was -- during the  
 4 semester where he was taking day courses?  
 5 A I don't know.  
 6 Q And you don't know that because you didn't  
 7 work weekends?  
 8 A I worked some weekends.  
 9 Q But you didn't routinely work weekends,  
 10 did you?  
 11 A That's correct.  
 12 Q So there would be really no way for you to  
 13 know if he worked weekends or not.  
 14 A If he worked weekends or not?  
 15 Q Right.  
 16 A That's correct.  
 17 Q After he finished the semester program,  
 18 did he go back to working a regular five-day  
 19 workweek reporting in the morning before you came  
 20 to work and leaving sometime before you did in  
 21 the evenings?  
 22 A Yes.  
 23 Q So the 4 o'clock PM to 6 o'clock PM three  
 24 day a week schedule was only say for half of the

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1 year?  
 2 A Correct. He said he didn't have to make  
 3 up the time he was away from the office.  
 4 Q Do you know if he made it up?  
 5 A I do not know if he made it up. I know he  
 6 told me that he was not required to make up that  
 7 time.  
 8 Q Any other people who took training courses  
 9 who were allowed to enter into programs that you  
 10 were not permitted to enter?  
 11 A Enter into programs?  
 12 Q (Counsel nodded.)  
 13 A I don't quite understand that.  
 14 Q You talked about Mr. Patton -- I'm  
 15 sorry -- Rick Canton being able to enter a  
 16 Microsoft certification program. I'm just trying  
 17 to figure out if there was anyone else other than  
 18 Suzanne Walker, Rick Canton, MaryAnn Russo and  
 19 Aihua Dai who either entered programs or took  
 20 classes or courses that you were not permitted to  
 21 take.  
 22 MS. HILL: She didn't testified to that.  
 23 Objection. She did not testify to that. She  
 24 testified that she couldn't take FileNet. That's

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1 the only one she testified that she could not  
 2 take. She didn't testify --  
 3 MS. MOORE: Ms. Hill --  
 4 MS. HILL: -- that she didn't enter in --  
 5 couldn't take certification. You're confusing  
 6 that, and you're -- Pay attention.  
 7 MS. MOORE: I'm not confusing anything. I  
 8 didn't say she testified --  
 9 MS. HILL: You just said --  
 10 (Simultaneous voices.)  
 11 MS. MOORE: I didn't interrupt you. Please  
 12 don't interrupt me.  
 13 MS. HILL: Okay.  
 14 MS. MOORE: I'm not asking -- not  
 15 recharacterizing what she testified to. The  
 16 record will reflect that. And I would ask that  
 17 you limit your objections simply to form.  
 18 MS. HILL: That is form. Misstating her  
 19 testimony is incorrect.  
 20 MS. MOORE: And I would ask that you  
 21 simply state "Objection."  
 22 Q Ms. Griffith, other than Ms. Walker,  
 23 Mr. Canton, Ms. Russo and Mr. Dai, was there  
 24 anyone else that you remember who was able to

14 (Pages 180 to 183)



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<p>1 take any sort of class or course or was permitted  2 to enter a program which you were not permitted  3 to enter or take?  4 MS. HILL: Objection to the form.  5 (Pause.)  6 Q Do you understand my question,  7 Ms. Griffith?  8 A Yeah.  9 Q Can you answer it, please.  10 THE WITNESS: Should I answer it?  11 MS. HILL: What do you understand her  12 to --  13 THE WITNESS: It's confusing.  14 MS. HILL: Well, then --  15 Q You just said you understood my question.  16 MS. MOORE: And I would ask you not to  17 coach the witness.  18 Q Do you understand my question?  19 A No. It's confusing.  20 Q Okay. You mentioned four people who were  21 able to take training courses or programs, and  22 you said you weren't able to take those. Do you  23 remember that?  24 A Yes.</p>	<p>1 developed into -- the skill of debugging, that I  2 had developed that skill. And I developed that  3 skill without the FileNet training that the  4 people who wrote the prob -- the programs had,  5 and I didn't have that.  6 Q So that sounds like a good thing.  7 A What is a good thing?  8 Q That you were able to develop --  9 A Without the training.  10 Q Mm-hmm.  11 A Correct.  12 Q Other --  13 A But it was harder --  14 Q I bet.  15 A -- I mean without the training.  16 Q I bet.  17 Anything other than having to sort of  18 teach yourself or use manuals to do the training  19 of yourself to debug? Any other harm that you  20 experienced because you didn't receive the  21 FileNet training?  22 A I didn't have manuals.  23 Q Were there manuals generally available?  24 A No.</p>
Page 185	Page 187
<p>1 Q Okay. Those four people were Suzanne  2 Walker, Rick Canton, MaryAnn Russo and Aihua Dai.  3 Is that correct?  4 A Correct.  5 Q Was there anyone else?  6 A That I am aware of, I would have to say  7 no.  8 Q Okay.  9 MS. MOORE: We'll take a break.  10 (Recess taken.)  11 MS. MOORE: Okay. We're back on the  12 record.  13 Could you read back the last question and  14 answer.  15 (Record read.)  16 Q Ms. Griffith, the fact that you did not  17 have the FileNet training, did that hamper you in  18 any way?  19 A Yes.  20 Q How?  21 A I was required to debug problems that were  22 FileNet related, and I didn't have the training.  23 So I put extra effort in to try to resolve the  24 problems, and Monica Scanlon said that I had</p>	<p>1 Q Did you work with anyone after they'd  2 returned from FileNet training to go over FileNet  3 basics?  4 A Say that again, please.  5 Q Did you ever work with anyone who did go  6 to the FileNet training to gain some knowledge or  7 basic information about the program?  8 A I did.  9 Q Who did you work with?  10 A Chen, C H E N.  11 Q Is that a first name or last name?  12 A I'm trying to remember. I believe that's  13 his last name.  14 Q Were you told to work with Chen in order  15 to catch up on the FileNet training?  16 A Yes.  17 Q Did you feel you could go back to Chen  18 with questions about FileNet training?  19 A About FileNet training. I'm not quite  20 sure -- You mean the knowledge of --  21 Q Yes.  22 A -- FileNet?  23 Yeah. Yes.  24 Q Did you go back to Chen with questions</p>

15 (Pages 184 to 187)

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1 about FileNet?  
 2 A I did.  
 3 Q Other than the training issues we just  
 4 discussed and the entrance into programs that we  
 5 just discussed, how else did you feel that you  
 6 were discriminated against based upon your race?  
 7 A I was harassed by Monica Scanlon because  
 8 of -- She said I had to work on my -- on my  
 9 health issues, and I told her I didn't know what  
 10 she meant about working on my health issues. I  
 11 received hostile treatment when Monica would call  
 12 me in to have me work on my health issues.  
 13 Q Okay. I'm going to stop you because I'm  
 14 confused. Okay?  
 15 A Okay. Those were her words.  
 16 Q The health issues were --  
 17 A Exactly.  
 18 Q When were you harassed by Ms. Scanlon?  
 19 A I believe it was during the summer of  
 20 1999. It might have been also 1998, but I  
 21 believe it was the summer of 1999.  
 22 (Pause.)  
 23 Q How were you harassed by Ms. Scanlon? And  
 24 specifically what I'm asking you is what was the

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1 me if I'm wrong. Okay?  
 2 A Okay.  
 3 Q At some time during the summer of 1999 you  
 4 had flat tires and were late to work.  
 5 A Correct.  
 6 Q Correct?  
 7 And Ms. Scanlon called you into her office  
 8 to discuss the fact that you were late and had  
 9 flat tires?  
 10 A That was one subject.  
 11 Q Okay. And the incidents that occurred in  
 12 that office during that conversation in the  
 13 summer of 1999 is the first time that you felt  
 14 that Monica Scanlon harassed you?  
 15 A I didn't say it was the first time. I  
 16 don't know if I could go with that first time.  
 17 Q Okay. Then let's leave the situation with  
 18 the tires and we'll come back to it, and you tell  
 19 me the first time that Ms. Scanlon harassed you.  
 20 A I would have to say, if we're going to say  
 21 first time, I can remember that incident where  
 22 she called me into her office and said that --  
 23 about the flat tires. She wanted to know if I  
 24 was true -- if I truly had flat tires, and I told

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1 first time you were harassed by Ms. Scanlon?  
 2 A It was during a meeting when she called me  
 3 into her office, and she wanted know if I  
 4 would -- truly had flat tires on 128 when I was  
 5 traveling to work on 128. I told her "Yes. I  
 6 brought receipts that were date and time stamped  
 7 from the tire people and also AAA, and you  
 8 refused to look at them."  
 9 Monica's response was hostile. "I didn't  
 10 ask you to show me any receipts."  
 11 And my response was "How can I prove  
 12 otherwise, that these things happened, when you  
 13 refuse to see my evidence that I had a flat tire?  
 14 They were cleaning -- sweeping 128 and sweeping  
 15 up a lot of nails, and I was not the only person  
 16 pulled over to the side of the road because of  
 17 flat tires."  
 18 Then -- Oh, you have another question?  
 19 Q No. Keep going.  
 20 A During that meeting -- You have to ask me  
 21 a question. I'm not sure what you want --  
 22 Q Okay. That's fine.  
 23 I'm going to try to characterize for you  
 24 what I understood you to be saying, and you tell

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1 her "Yes. I brought receipts in that were  
 2 date/time stamped, and you wouldn't look at  
 3 them."  
 4 Q Okay.  
 5 A And then she said that "Well, we want to  
 6 talk about what we can do about you and your  
 7 health." And I'm trying to get this as accurate  
 8 as possible.  
 9 Q I understand. Was there anything else?  
 10 A It was more to the conversation, but --  
 11 Q Okay. So the first time you felt harassed  
 12 by Monica Scanlon was when she brought you into  
 13 her office to talk to you about being late and  
 14 the flat tire incident.  
 15 A Correct.  
 16 Q Is that correct? Okay.  
 17 Did you want to say something?  
 18 A Well, I thought I was going to say the  
 19 next time.  
 20 Q Okay. One second. We'll get there.  
 21 So at some point during the summer of 1999  
 22 Monica tells you to come into her office. She  
 23 wants to talk to you about whether or not you  
 24 really had flat tires on 128. Correct?



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1 Q Any other way you felt like you were  
2 retaliated against for any reason?

3 A I feel I was retaliated against when I  
4 was -- when I was instructed to lift heavy carts  
5 and computer parts, which was something that was  
6 not something that a heart patient, I believe,  
7 would be asked to do.

8 Q Did your doctor tell you not to lift  
9 things?

10 A Yes.

11 Q Which doctor?

12 A The -- No. What the point in time?

13 Q At the time in which you said you were  
14 lifting things.

15 A You mean at the time I was asked to lift  
16 things?

17 Q Yes.

18 A Okay. I had been told not to lift  
19 anything heavier than ten pounds. This was after  
20 my surgery. And I hadn't been told anything  
21 different. And when I went back to my doctor  
22 after the incident where I was asked to lift  
23 heavy computer equipment and things, I went back  
24 to my doctor for a clarification on that. And

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1 she wrote that I was to have a lift limit of, I  
2 believe, ten pounds.

3 Q And who -- which doctor was this?

4 A Doctor Moner, M O N E R.

5 Q And when did you go to see her for this  
6 clarification?

7 A This would have been in 1999, I believe  
8 around August or September.

9 Q Okay. Who told you to lift something?

10 A Karen Holmes.

11 Q What did she tell you to lift?

12 A I was supposed to empty out industrial  
13 crates that were rented by the company.

14 Q Why -- Did she tell only you to do this?

15 A She sent me a memo. I don't know if she  
16 told other people. But you asked me who -- who  
17 told me, and it was Karen Holmes.

18 Q She sent you a memo?

19 A She sent me a memo.

20 Q Was it an E mail?

21 A It was an -- Yes, in E mail form.

22 MS. MOORE: Could you mark this, please.  
23 (Exhibit 2 marked for identification.)

24 Q Ms. Griffith, right now what I'm showing

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1 you has been marked as Exhibit 2. I've given  
2 your counsel a copy as well. At the bottom of  
3 the page are the letters "DE" and the numbers  
4 "0272." This is an E mail. The title line has  
5 "Griffith, comma, Bernadine T."

6 Would you review the document, please.

7 A Yes.

8 Q Okay. Would you read, please, what it  
9 says in the second message in the center of the  
10 page where it says "Bernadine."

11 A "Bernadine, see me about the stuff in the  
12 server room that may belong to Image. Thanks.  
13 Karen."

14 Q Did you see Karen about it?

15 A Yes.

16 Q And what did you -- what did she say to  
17 you?

18 A She told me to empty the crates.

19 Q Okay. Had you told Karen that you  
20 couldn't lift anything or that you couldn't lift  
21 more than ten pounds?

22 A No, I didn't.

23 Q Okay. At the time she asked you to help  
24 unpack did you say to her "I can't do this. I

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1 can't lift more than ten pounds"?

2 A I did tell her that I shouldn't be lifting  
3 that -- those crates.

4 Q Did you tell her why?

5 A I believe I did.

6 Q Did you tell her you weren't going to do  
7 it?

8 A No.

9 Q You did it anyway?

10 A No.

11 Q You didn't do it?

12 A I did not.

13 Q Why didn't you do it?

14 A Because I knew it would probably have  
15 me -- hurt me physically, and I didn't want to  
16 have another heart attack.

17 Q Did she ask you why you weren't going to  
18 do it?

19 A No.

20 Q Was that the end of your conversation,  
21 just that you weren't going to do it?

22 A I didn't -- It -- Okay. I told her that  
23 it wouldn't be good for me to do this.

24 Q Okay.

33 (Pages 256 to 259)

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1 (Pause.)  
 2 A I -- I have to get rest. I have to -- I  
 3 may not sleep constant -- I mean like a  
 4 regular -- like every day you go to bed or you go  
 5 to sleep or what have you, but I have to maintain  
 6 some rest. I have to get rest. And the periods  
 7 of rest are sometimes frequent.  
 8 Q Anything else?  
 9 A It's been such a standard thing until -- I  
 10 think that's about it.  
 11 Q Okay.  
 12 A You know, assertions. You know, assert  
 13 yourself physically.  
 14 Q You wrote something down.  
 15 A Yeah. The company provided breaks for --  
 16 as a company benefit. I was required to get a  
 17 note from my doctor justifying my need to take an  
 18 occasional ten-minute break, work break.  
 19 Q And you felt that was evidence of racial  
 20 discrimination?  
 21 A Yes. And also disability discrimination.  
 22 Q Okay. And who required you to do that?  
 23 A Karen Holmes.  
 24 Q And why did you think it was racial and

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1 disability discrimination?  
 2 A Because other people were not being asked  
 3 to justify their need to take a ten-minute work  
 4 break. And after I -- the first -- my doctor  
 5 wrote the -- or type -- printed his note on  
 6 letter -- on paper that was not letterhead, and I  
 7 was required to go back and get letterhead, get  
 8 him to write his note, his request for me to have  
 9 an occasional ten-minute work break on  
 10 letterhead. So that was two appointments that I  
 11 had to do for a company benefit that everyone got  
 12 without any say-so --  
 13 Q You --  
 14 A -- without --  
 15 Q You had actual appointments for that?  
 16 A I had -- Yes.  
 17 Q You didn't call in and request a letter?  
 18 A I did not.  
 19 Q Neither time?  
 20 A Neither time.  
 21 Q Any other instances that you feel like  
 22 were evidence of retaliation, something that  
 23 people did to you specifically in retaliation for  
 24 something that you did?

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1 A Retaliation for something I did?  
 2 Q Mm-hmm.  
 3 A I don't know of anything that I would have  
 4 been re -- that would warrant a -- something that  
 5 I did as far as retaliation.  
 6 Q Do you feel like you were retaliated  
 7 against by anybody else?  
 8 A I feel I was re -- mistreated, that I  
 9 didn't receive the same treatment that other  
 10 people in the group or for that matter within  
 11 the -- the company. I would be -- I don't know  
 12 if anyone else was told to justify their need for  
 13 a work break. Considering how many and the  
 14 duration of some of the smoking breaks that went  
 15 on with the people there, I know not -- of not  
 16 one instance where a smoker was told to bring a  
 17 note from their doctor to justify them standing  
 18 outside smoking.  
 19 Q Okay. Other than --  
 20 A And I --  
 21 Q I'm sorry. Go ahead.  
 22 A That -- That's okay.  
 23 Q Other than the issue of the raise, is  
 24 there anything -- is there any other instance of

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1 retaliation that you can recall for any reason?  
 2 A I think I was retaliated against because  
 3 of my race and also my disability when I was  
 4 fired for being absent three days in September.  
 5 I was told that I -- I was given an FMLA  
 6 certificate. I was told I had 12 weeks under --  
 7 protection under the FMLA. There was text in the  
 8 employee manual that said FMLA ran for -- I mean  
 9 you had 12 weeks of protection and that you may  
 10 have to use vacation time or personal business  
 11 for absences that were not paid.  
 12 That text gave me the impression that if I  
 13 were out on -- during my FMLA term of 12 weeks,  
 14 if I had, say, to be out for something that was  
 15 not covered by CU as far as the sick time policy,  
 16 the sick time policy and then the short-term  
 17 policy and then the long-term policy, that I  
 18 would have to -- in order to not experience a  
 19 paycheck missing one day or what have you, I  
 20 would have to use a vacation day for that. So  
 21 that gave me the impression also that I was -- I  
 22 had 12 weeks of protection, like Michael Sisto  
 23 told me, to be absent --  
 24 Q Did you --



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1 other personnel told me that the other managers, the  
2 managers were instructed to not give, not use, at a  
3 certain time -- excuse me. I'm sorry. Start over  
4 again.

5 Personnel told me in a meeting that  
6 performance reviews given in year 2000 were not to  
7 be given on forms that the 1999 reviews were given  
8 on.

9 So, I'm saying that I was treated  
10 differently from what the other employees that  
11 received performance reviews in 2000.

12 Q. And you felt that was because of your race?

13 A. Yes.

14 Q. Okay. You also mentioned previously that  
15 you felt the fact that you never received your  
16 retroactive raise to 1999 was evidence of racial  
17 discrimination, is that correct?

18 A. Yes.

19 Q. You also testified that the fact that Ellen  
20 Elliot and Mary Russo were allowed to arrive at work  
21 later than you was evidence of racial  
22 discrimination?

23 A. I believe I said that they arrived around  
24 the same time that I did, and they left earlier than

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1 your FMLA leave?

2 MS. HILL: Objection.

3 A. No, I didn't say that.

4 Q. Do you believe you were fired -- do you  
5 believe your being fired for using your FMLA leave  
6 was evidence of racial discrimination?

7 A. And disability discrimination, racially and  
8 disability discrimination.

9 Q. Why racial?

10 A. Because other employees were not -- Dan  
11 Paige is an employee on the same floor that I was  
12 on. And Dan Paige told me that his doctor wrote a  
13 note to the company requesting that he be allowed to  
14 leave work any time he felt the need for it.

15 Dan Paige was still an employee when I  
16 was fired.

17 Dan Paige's absences -- I witnessed  
18 myself him leaving -- were not being tracked or  
19 regulated the way my absences were being tracked.

20 Dan Paige was a recovering cancer  
21 patient.

22 I had an ongoing heart condition. And I  
23 considered that his treatment and the treatment that  
24 I received, I considered my treatment to be racial

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1 I did. They left earlier -- they left without  
2 putting in a seven-and-a-half-hour workday.

3 Q. And you felt that that was racially  
4 discriminatory?

5 A. Right. Because they were allowed to do it  
6 and not I.

7 I had an accommodation agreement that  
8 was not being honored. And they didn't have to have  
9 an accommodation agreement in order to have those  
10 hours.

11 Q. You also indicated that Karen Holmes'  
12 requiring you to get a doctor's note in order to  
13 take breaks was racial discrimination?

14 A. Yes.

15 And disability.

16 Q. Okay.

17 A. It was a company policy.

18 Q. And I also have written down that you  
19 testified that you felt it was racial discrimination  
20 that you were fired for using your FMLA leave.

21 Is that correct?

22 A. Say that again, please.

23 Q. You felt it was an incidence of racial  
24 discrimination that you were terminated for using

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1 and also disability.

2 Q. Who did Dan Paige report to, do you know?

3 A. I can't recall his name.

4 Q. Do you know --

5 A. Her name.

6 Q. Did he report to Karen Holmes?

7 A. No.

8 Q. Did he report to Mike Sisto?

9 A. No.

10 Q. Did he report to Monica Scanlon?

11 A. No.

12 Q. How do you know that his absences weren't  
13 tracked?

14 A. I know what Dan Paige told me.

15 Q. Did Dan Paige tell you that his absences  
16 were not recorded?

17 A. Dan Paige told me that he didn't have to  
18 make up any of his time because it was a  
19 health-related absence from the job.

20 Q. How do you know that his absences weren't  
21 tracked?

22 A. All I am saying is what Dan Paige told me.  
23 And that's the extent of my knowledge.

24 Q. So, you don't necessarily know that his

17 (Pages 340 to 343)

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<p style="text-align: right;">Page 344</p> <p>1 absences weren't tracked?</p> <p>2 A. That's correct.</p> <p>3 Q. Anything other than what I've mentioned</p> <p>4 today and you've mentioned in the past that is an</p> <p>5 instance or evidence of the fact that you were</p> <p>6 racially discriminated against?</p> <p>7 A. I can't recall anything else.</p> <p>8 Q. You don't recall any other comments to you?</p> <p>9 A. Other than the tar baby instance?</p> <p>10 Q. Right.</p> <p>11 A. And up yours?</p> <p>12 Q. Uh-huh.</p> <p>13 A. If my memory is jogged, maybe I would, but</p> <p>14 at this point...</p> <p>15 Q. Do you recall overhearing comments said</p> <p>16 about other people but not you that were racially</p> <p>17 motivated?</p> <p>18 MS. HILL: Objection to the form.</p> <p>19 A. No.</p> <p>20 Q. Did you understand my question?</p> <p>21 A. No.</p> <p>22 Q. You didn't understand my question?</p> <p>23 A. I understood your question.</p> <p>24 The answer is no.</p>	<p style="text-align: right;">Page 3-</p> <p>1 protection of long-term disability insurance in case</p> <p>2 I became disabled on a long-term basis, that certain</p> <p>3 provisions would be provided to me because of this</p> <p>4 insurance that I was taking.</p> <p>5 The company -- nowhere in any document</p> <p>6 that was given to me did it say that I could not be</p> <p>7 sick, that I could not take a sick day during the</p> <p>8 period I was on probation.</p> <p>9 Michael Sisto's letter of July -- excuse</p> <p>10 me -- September 27, 2000 stated as one of the</p> <p>11 reasons that I was terminated was because I called</p> <p>12 in sick September, I believe it was 11, 12 and 13.</p> <p>13 His reason for terminating me within</p> <p>14 that letter said because I called in sick in</p> <p>15 violation of my probation.</p> <p>16 And I'm saying, that was not my</p> <p>17 probation. Nowhere did it say that I could not be</p> <p>18 sick during the entire time that I was on probation.</p> <p>19 The insurance premium for disabled, long-term</p> <p>20 disability was being taken out of my check.</p> <p>21 I even had a payment taken out of the</p> <p>22 last check that was cut especially to give to me</p> <p>23 when I was terminated, at the termination meeting,</p> <p>24 and a disability payment was taken out of that.</p>
<p style="text-align: right;">Page 345</p> <p>1 Q. Okay. Thanks. Okay.</p> <p>2 I want to do the same thing with racial</p> <p>3 discrimination, I want to do that with disability</p> <p>4 discrimination to make sure we've got everything.</p> <p>5 So, I'm going to go through, and you can</p> <p>6 tell me yes or no.</p> <p>7 I think you said this just a moment ago</p> <p>8 that Ellen Elliot and Marianne Russo having more</p> <p>9 flex time was evidence of disability discrimination?</p> <p>10 A. In the sense that I had to submit proof from</p> <p>11 my doctors and get approval, and they didn't.</p> <p>12 Q. Do you know for a fact that they didn't?</p> <p>13 A. I know what they said to me.</p> <p>14 Q. Okay. And what they said was they didn't</p> <p>15 have to submit anything from a doctor?</p> <p>16 A. Yes.</p> <p>17 Q. You also mentioned that you felt like your</p> <p>18 termination was disability discrimination.</p> <p>19 Can you tell me exactly why?</p> <p>20 A. It was disability discrimination because I</p> <p>21 had an insurance premium being deducted from my</p> <p>22 check, long-term disability insurance premium.</p> <p>23 I felt that the company created fraud by</p> <p>24 allowing, telling me that if I were to purchase the</p>	<p style="text-align: right;">Page 347</p> <p>1 Q. Okay.</p> <p>2 A. And I didn't know after I was, after I</p> <p>3 became disabled, after I was fired, if I was covered</p> <p>4 or not.</p> <p>5 And no documentation that the company</p> <p>6 sent me indicated one way or the other if I still</p> <p>7 had coverage from the insurance premiums that I was</p> <p>8 paying for when they terminated me.</p> <p>9 Also, I was told by Michael Sisto that</p> <p>10 FMLA would give me, I believe it was 12 weeks or 14</p> <p>11 weeks, I'm not sure, of protection, that sick</p> <p>12 absences would not be charged against me. In other</p> <p>13 words, occurrences or what have you of absences</p> <p>14 would not be charged against me.</p> <p>15 And that proved not to be true because</p> <p>16 two weeks after I took sick time, I was terminated</p> <p>17 with a letter saying that the reason was because I</p> <p>18 called in sick.</p> <p>19 Q. Okay. I'm going to pick that apart a little</p> <p>20 bit and ask you some questions about some things you</p> <p>21 just said.</p> <p>22 A. Certainly.</p> <p>23 Q. On September 11, September 12 and September</p> <p>24 13 of 2000, when you were ill, did you believe those</p>

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1 days should have been covered under your long-term  
2 disability plan?  
3 A. No.  
4 May I expand?  
5 Q. Sure.  
6 A. OneBeacon had a sick time policy, short-term  
7 disability, which was five days or more, and then  
8 long-term disability that clicked in off the  
9 short-time disability phase.  
10 So, I believed that I was covered under  
11 those three plans, sick time plans.  
12 Q. Okay. But the three days that you were out,  
13 the 11th, the 12th and the 13th --  
14 A. Fell under Commercial Union -- OneBeacon --  
15 Q. I know what you're talking about.  
16 A. -- OneBeacon's sick time policy.  
17 Q. Okay.  
18 A. That's what I believed.  
19 Q. Was it your understanding that the FMLA  
20 covered --  
21 A. Excuse me.  
22 Q. Sure.  
23 A. I'd like to qualify that last statement.  
24 I believe that I still had sick time

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1 policy privileges, FMLA sick time privileges for the  
2 September 11, 12th and 13th.  
3 It was not in my head to indicate what  
4 absence, what category those absences would have  
5 been placed in. That was something that personnel  
6 did or Karen did or Michael did.  
7 My only obligation was to report that I  
8 was sick, use the category report that I was sick.  
9 And I believe that I was covered, more  
10 than covered by what Michael Sisto told me.  
11 Q. Did Michael Sisto give you any documents  
12 that talked to you about the FMLA?  
13 A. No, he didn't.  
14 Q. Did he refer you to a person or make an  
15 appointment for you to talk to somebody about the  
16 FMLA?  
17 A. No, he didn't.  
18 Q. Now, I want to talk to you about retaliation  
19 and things that you've recounted that happened and  
20 you felt they were retaliation.  
21 Okay?  
22 A. Okay.  
23 Q. You mentioned the retroactive raise to 1999  
24 that you never received. You felt that that was

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1 retaliation, the fact that you didn't receive it was  
2 retaliation.  
3 Is that accurate?  
4 A. Yes.  
5 Q. You mentioned the fact that you were forced  
6 to lift heavy carts and computer parts was  
7 retaliatory?  
8 A. Yes.  
9 Q. The fact that you were fired for using or  
10 being out sick, you felt that was retaliatory as  
11 well?  
12 A. Yes.  
13 Q. Was there anything else?  
14 A. Not at this time.  
15 Q. I'm going to ask you some more questions  
16 about your disability.  
17 Okay?  
18 A. Okay.  
19 Q. At any time, did you tell or have a  
20 physician tell OneBeacon that you were disabled to  
21 the point that you couldn't perform certain tasks?  
22 A. Say that again, please.  
23 Q. At any time, did you tell them personally or  
24 instruct your physician to tell anyone at OneBeacon

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1 that you were disabled to a point where you couldn't  
2 perform certain tasks?  
3 A. I did not.  
4 By certain tasks, you mean the tasks --  
5 can you tell me what you mean by certain tasks?  
6 Q. I mean anything.  
7 You couldn't do anything, any sort of  
8 activity?  
9 A. Within my job description or outside of my  
10 job description?  
11 Q. Within your job description.  
12 A. I did not.  
13 Q. We've talked about some of the  
14 accommodations you requested?  
15 A. Yes.  
16 Q. Whether they were received or not. I want  
17 to make sure we're on the same page.  
18 Earlier in your testimony in February, I  
19 believe, you mentioned that Mr. Freeman granted you  
20 late arrival, is that correct?  
21 A. No, no.  
22 Q. Okay. So, when you requested to come in  
23 late and Mr. Freeman was your supervisor, you  
24 weren't permitted flexibility in the time of your

19 (Pages 348 to 351)

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1 During what time did Michael Sisto not  
2 comply with the request as set forth by Kathleen  
3 Moynihan in the memo?  
4 A. When he -- before and after Monica Scanlon's  
5 employment, during the time I reported to Karen  
6 Holmes, Monica Scanlon, Michael Sisto.  
7 Q. Do you know if Michael Sisto was aware of  
8 your hour restrictions?  
9 A. In -- by -- I don't know.  
10 Q. Okay. Was there ever a time when you  
11 reported directly to Michael Sisto?  
12 A. No.  
13 Q. So, there was always someone in between you  
14 and Michael Sisto?  
15 A. Correct.  
16 Q. And that person in between you and Michael  
17 Sisto, were they your primary supervisor?  
18 A. Yes.  
19 Q. Okay. They were the person that saw you on  
20 a day-to-day basis?  
21 A. Yes.  
22 Q. So, when you described or when you said that  
23 Michael Sisto didn't honor your time requirements,  
24 I'm curious as to how he didn't do that if he really

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1 didn't see you on a day-to-day basis?  
2 A. I had forgotten in a meeting that I had with  
3 Karen Holmes and Michael Sisto, I informed him of  
4 what my accommodations were.  
5 I also informed him that I had a  
6 handicap placard that was issued by the State of  
7 Massachusetts. It was during that meeting.  
8 Q. Okay. Was this a meeting that took place in  
9 2000?  
10 A. Yes.  
11 Q. My understanding in 2000 was that your hours  
12 were as reflected in Exhibit 4, from 10:00 a.m. to  
13 6:15 p.m.?  
14 A. Not all the time.  
15 Wait a minute. I'm sorry.  
16 (Pause.)  
17 A. Okay. I informed -- in a meeting that I had  
18 with Michael Sisto, that was in 2000, I was  
19 attempting to address the issues that Monica Scanlon  
20 referred to in her memo to, that should go to my  
21 file, where she -- and also my performance review.  
22 I was attempting in that meeting to  
23 inform -- I didn't know what Michael Sisto knew or  
24 didn't know.

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1 And in that meeting, I had documents  
2 that I was ready to submit to him so that he could  
3 see that I did complete my job assignments, and I  
4 didn't have any problems in completing the  
5 assignments.  
6 And I also indicated to him about the  
7 Saturday projects that were given to me and also  
8 what my hours were at that time.  
9 Q. Okay. But that was all when you were  
10 reporting to Monica directly, correct?  
11 (Interruption.)  
12 A. Okay. By that, you're referring to what I  
13 was telling Michael Sisto?  
14 Q. Correct.  
15 A. Right. Because Michael Sisto attached to my  
16 file the memo from Monica Scanlon with the  
17 allegations that were in them.  
18 I took the first opportunity I had to  
19 try to prove what my point was and that I did do my  
20 work.  
21 Q. Okay. Let me see if I understand what  
22 you're saying.  
23 Are you saying that some time in 2000,  
24 you spoke with Michael Sisto about the fact that in

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1 1999 and before then, you had had a certain time,  
2 you had certain time restrictions that either were  
3 or were not honored?  
4 A. Correct.  
5 Q. So, am I correct then in saying that Michael  
6 Sisto never, never violated your restrictive hours?  
7 A. Michael Sisto did not, that I am aware of,  
8 have input in that area.  
9 I was attempting to get Michael Sisto to  
10 see that I should not have been placed on probation.  
11 Q. Okay.  
12 A. And I, at that time, in 2000, I was being  
13 placed on probation from allegations that came from  
14 1999.  
15 Q. Okay. We'll get to that.  
16 A. Okay. But at that point, to answer, to go  
17 back to answer your questions, that's when I let  
18 Michael Sisto know that I had certain hours and  
19 restrictions that were not honored, and that I did  
20 my job anyway.  
21 Q. But he wasn't the person who violated the  
22 restrictive time frame, is that correct?  
23 A. Well, in a sense, he was, because Monica  
24 reported to him.

25 (Pages 372 to 375)



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1 Q. But he was never there on a day-to-day basis  
2 to say to you, you know, come in before 9:30 and  
3 stay after 7:00?

4 A. I don't know what his duties were or what  
5 duties he chose to involve himself in or not, but I  
6 was concerned with the duties of him issuing to me  
7 that I was late.

8 He said that to me, that I was tardy and  
9 that I had these absences.

10 Q. Okay.

11 A. And that's when he got involved in that and  
12 saying that to me.

13 Then that's when I got involved in  
14 trying to prove to him that this did not happen.

15 I can remember asking Michael Sisto  
16 directly, what method did Karen Holmes use to keep  
17 attendance, and where was the attendance report that  
18 they used as a basis to put me on probation.

19 Q. Okay. Ms. Griffith, I'm going to stop you  
20 right now, just because I don't want us to get ahead  
21 of ourselves.

22 A. Okay.

23 Q. We're going to talk about the meetings in  
24 2000. I think they were in the summer of 2000 and

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1 honor -- no -- support my doctor's recommendation.

2 Q. Okay. Right after I asked you that, I asked  
3 if there was anyone else who told you they would  
4 support any kind of accommodation or would honor a  
5 request for an accommodation, and then didn't  
6 deliver on that statement.

7 And you mentioned Monica Scanlon,  
8 Michael Sisto and Karen Holmes.

9 A. Exactly.

10 Q. And I just -- with regard to Michael Sisto,  
11 did Michael Sisto ever tell you he was going to  
12 honor some request for an accommodation and then not  
13 do it?

14 A. Michael Sisto refused to discuss with me the  
15 accommodation agreement that I had from personnel.  
16 That's as factual as I can get.

17 Q. Okay. Now, are you -- when you say that,  
18 are you saying that in 2002, during a meeting,  
19 Michael Sisto would not engage you about the  
20 accommodations that were granted in 1999?

21 A. Right.

22 And all this came about during the  
23 January, first of the year, around the performance  
24 review time.

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1 being on probation, but right now, I want to make  
2 sure we're just talking about your accommodations.

3 A. And who knew what and when?

4 Q. Right. And how we got here, I asked you a  
5 question whether or not someone at OneBeacon or any  
6 of its other names promised you some sort of  
7 accommodation and then didn't deliver it for you.

8 And you said to me that Kathleen  
9 Moynihan did because she wrote this memo and  
10 included the time frame, and that for a week after  
11 she had written the memo, when Ed Freeman was your  
12 supervisor, he didn't abide by that time frame.

13 And then you mentioned --

14 A. I had a problem with the promise. I  
15 remember saying that, because I didn't know if  
16 Kathleen Moynihan writing that memo was, in essence,  
17 a promise by the company.

18 Q. Okay. That's fair enough.

19 A. So, that's the only stipulation that I would  
20 put on that.

21 Q. Okay.

22 A. Because I don't know if that was, indeed, a  
23 promise.

24 All I know is that they said they would

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1 Q. Okay. Other than that, was there a time  
2 when Michael Sisto didn't honor his statement to you  
3 that he would provide you with some sort of  
4 accommodation?

5 A. Yes.

6 Well, he promised me that he would give  
7 me an attendance report that he based his, that he  
8 based his -- I'm trying -- I'm sorry. I lost track  
9 -- that he based his, the written warning on.

10 Q. Okay. When you talk about the attendance  
11 report, do you feel like the attendance report was  
12 some sort of accommodation, or was this just an  
13 instance of him saying he would do something and  
14 then didn't do it?

15 A. You mean that after him giving -- I'm not  
16 sure what you're saying.

17 Are you saying the act of him giving me  
18 an attendance report is the promise, I mean, in the  
19 same line as accommodation?

20 Q. Let's start over. The question I asked you  
21 was this.

22 Was there ever a time that Michael Sisto  
23 said to you that he would honor or support your  
24 request for an accommodation and then he didn't do